In the Supreme Court of the United States

OCTOBER TERM, 1973

No. 73-103

DOLORES IANNELLI, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

MEMORANDUM FOR THE UNITED STATES

After a jury trial in the United States District Court for the Western District of Pennsylvania petitioner was convicted of conducting an illegal gambling business in violation of 18 U.S.C. 1955. She was sentenced to six months' imprisonment, which sentence was suspended and she was fined $5,000.[1] The court of appeals affirmed (Pet. App. A). Petitioner challenges the validity of a court ordered electronic surveillance on the ground that proper procedures were not followed within the

[1] Petitioner had previously been tried with several codefendants for the same offense and for conspiracy to commit that offense. Four of her codefendants were acquitted, the remainder were convicted and the jury was unable to reach a verdict as to petitioner. Retrial and conviction in the instant case followed. The codefendants have petitioned this Court for a writ of certiorari to review their separate convictions, see *Robert E. Iannelli* v. *United States*, No. 73-64.

Department of Justice for authorizing the application to the court for the surveillance order. As petitioner points out (Pet. 4) this case presents the same issue before this Court in *United States* v. *Chavez*, No. 72-1319, certiorari granted, May 21, 1973.[2]

Since this issue is now pending in *Chavez* the Court may wish to defer disposition of the instant case pending resolution of the issue in *Chavez*.

Respectfully submitted.

ROBERT H. BORK,
Solicitor General.

SEPTEMBER 1973.

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[2] Contrary to petitioner's claim, the district court specifically found that former Attorney General Mitchell had personally approved the surveillance application in this case. See Pet. App. 3a-4a in *Robert E. Iannelli*, No. 73-64, *supra*.